

106TH CONGRESS
1ST SESSION

S. 566

To amend the Agricultural Trade Act of 1978 to exempt agricultural commodities, livestock, and value-added products from unilateral economic sanctions, to prepare for future bilateral and multilateral trade negotiations affecting United States agriculture, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 8, 1999

Mr. LUGAR introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Agricultural Trade Act of 1978 to exempt agricultural commodities, livestock, and value-added products from unilateral economic sanctions, to prepare for future bilateral and multilateral trade negotiations affecting United States agriculture, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Agricultural Trade
5 Freedom Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act, the terms “agricultural commodity” and
3 “United States agricultural commodity” have the mean-
4 ings given the terms in section 102 of the Agricultural
5 Trade Act of 1978 (7 U.S.C. 5602).

6 **SEC. 3. AGRICULTURAL COMMODITIES, LIVESTOCK, AND**
7 **PRODUCTS EXEMPT FROM SANCTIONS.**

8 Title IV of the Agricultural Trade Act of 1978 (7
9 U.S.C. 5661 et seq.) is amended by adding at the end
10 the following:

11 **“SEC. 418. AGRICULTURAL COMMODITIES, LIVESTOCK, AND**
12 **PRODUCTS EXEMPT FROM SANCTIONS.**

13 “(a) DEFINITIONS.—In this section:

14 “(1) CURRENT SANCTION.—The term ‘current
15 sanction’ means a unilateral economic sanction that
16 is in effect on the date of enactment of the Agricul-
17 tural Trade Freedom Act.

18 “(2) NEW SANCTION.—The term ‘new sanction’
19 means a unilateral economic sanction that becomes
20 effective after the date of enactment of that Act.

21 “(3) UNILATERAL ECONOMIC SANCTION.—The
22 term ‘unilateral economic sanction’ means any prohi-
23 bition, restriction, or condition on economic activity,
24 including economic assistance, with respect to a for-
25 eign country or foreign entity that is imposed by the
26 United States for reasons of foreign policy or na-

1 tional security, except in a case in which the United
2 States imposes the measure pursuant to a multilat-
3 eral regime and the other members of that regime
4 have agreed to impose substantially equivalent meas-
5 ures.

6 “(b) EXEMPTION.—

7 “(1) IN GENERAL.—Subject to paragraphs (2)
8 and (3) and notwithstanding any other provision of
9 law, agricultural commodities made available as a re-
10 sult of commercial sales shall be exempt from a uni-
11 lateral economic sanction imposed by the United
12 States on another country.

13 “(2) EXCLUSIONS.—Paragraph (1) shall not
14 apply to agricultural commodities made available as
15 a result of programs carried out under—

16 “(A) the Agricultural Trade Development
17 and Assistance Act of 1954 (7 U.S.C. 1691 et
18 seq.);

19 “(B) section 416 of the Agricultural Act of
20 1949 (7 U.S.C. 1431);

21 “(C) the Food for Progress Act of 1985 (7
22 U.S.C. 1736o); or

23 “(D) the Agricultural Trade Act of 1978
24 (7 U.S.C. 5601 et seq.).

1 “(3) DETERMINATION BY PRESIDENT.—If the
 2 President determines that the exemption provided
 3 under paragraph (1) should not apply to a unilateral
 4 economic sanction for reasons of foreign policy or
 5 national security, the President may include the ag-
 6 ricultural commodities made available as a result of
 7 the activities described in paragraph (1) in the uni-
 8 lateral economic sanction.

9 “(c) CURRENT SANCTIONS.—

10 “(1) IN GENERAL.—Subject to paragraph (2),
 11 the exemption under subsection (b)(1) shall apply to
 12 a current sanction.

13 “(2) PRESIDENTIAL REVIEW.—Not later than
 14 90 days after the date of enactment of the Agricul-
 15 tural Trade Freedom Act, the President shall review
 16 each current sanction to determine whether the ex-
 17 emption under subsection (b)(1) should apply to the
 18 current sanction.

19 “(3) APPLICATION.—The exemption under sub-
 20 section (b)(1) shall apply to a current sanction be-
 21 ginning on the date that is 180 days after the date
 22 of enactment of the Agricultural Trade Freedom Act
 23 unless the President determines that the exemption
 24 should not apply to the current sanction for reasons
 25 of foreign policy or national security.

1 “(d) REPORT.—

2 “(1) IN GENERAL.—If the President determines
3 that the exemption under subsection (b)(2) or (c)(2)
4 should not apply to a unilateral economic sanction,
5 the President shall submit a report to the Commit-
6 tee on Agriculture of the House of Representatives
7 and the Committee on Agriculture, Nutrition, and
8 Forestry of the Senate—

9 “(A) in the case of a current sanction, not
10 later than 15 days after the date of the deter-
11 mination under subsection (c)(2); and

12 “(B) in the case of a new sanction, on the
13 date of the imposition of the new sanction.

14 “(2) CONTENTS OF REPORT.—The report shall
15 contain—

16 “(A) an explanation of the foreign policy
17 or national security reasons for which the ex-
18 emption should not apply to the unilateral eco-
19 nomic sanction; and

20 “(B) an assessment by the Secretary—

21 “(i) regarding export sales—

22 “(I) in the case of a current
23 sanction, whether markets in the
24 sanctioned country or countries
25 present a substantial trade oppor-

1 tunity for export sales of a United
2 States agricultural commodity; or

3 “(II) in the case of a new sanc-
4 tion, the extent to which any country
5 or countries to be sanctioned or likely
6 to be sanctioned are markets that ac-
7 counted for, during the preceding cal-
8 endar year, more than 3 percent of
9 export sales of a United States agri-
10 cultural commodity;

11 “(ii) regarding the effect on United
12 States agricultural commodities—

13 “(I) in the case of a current
14 sanction, the potential for export sales
15 of United States agricultural commod-
16 ities in the sanctioned country or
17 countries; and

18 “(II) in the case of a new sanc-
19 tion, the likelihood that exports of
20 United States agricultural commod-
21 ities will be affected by the new sanc-
22 tion or by retaliation by any country
23 to be sanctioned or likely to be sanc-
24 tioned, including a description of spe-
25 cific United States agricultural com-

1 commodities that are most likely to be af-
2 fected;

3 “(iii) regarding the income of agricul-
4 tural producers—

5 “(I) in the case of a current
6 sanction, the potential for increasing
7 the income of producers of the United
8 States agricultural commodities in-
9 volved; and

10 “(II) in the case of a new sanc-
11 tion, the likely effect on incomes of
12 producers of the agricultural commod-
13 ities involved;

14 “(iv) regarding displacement of
15 United States suppliers—

16 “(I) in the case of a current
17 sanction, the potential for increased
18 competition for United States suppli-
19 ers of the agricultural commodity in
20 countries that are not subject to the
21 current sanction; and

22 “(II) in the case of a new sanc-
23 tion, the extent to which the new
24 sanction would permit foreign suppli-

1 ers to replace United States suppliers;
2 and

3 “(v) regarding the reputation of
4 United States agricultural producers as re-
5 liable suppliers—

6 “(I) in the case of a current
7 sanction, whether removing the sanc-
8 tion would increase the reputation of
9 United States producers as reliable
10 suppliers of agricultural commodities
11 in general, and of specific agricultural
12 commodities identified by the Sec-
13 retary; and

14 “(II) in the case of a new sanc-
15 tion, the likely effect of the proposed
16 sanction on the reputation of United
17 States producers as reliable suppliers
18 of agricultural commodities in general,
19 and of specific agricultural commod-
20 ities identified by the Secretary.”.

21 **SEC. 4. OBJECTIVES FOR AGRICULTURAL NEGOTIATIONS.**

22 It is the sense of Congress that the principal agricul-
23 tural trade negotiating objectives of the United States for
24 future multilateral and bilateral trade negotiations (in-
25 cluding negotiations involving the World Trade Organiza-

tion) should be to achieve, on an expedited basis and to the maximum extent practicable, more open and fair conditions for trade in agricultural commodities by—

(1) developing, strengthening, and clarifying rules for trade in agricultural commodities, including eliminating or reducing restrictive or trade-distorting import and export practices, including—

(A) enhancing the operation and effectiveness of the relevant provisions of the Uruguay Round Agreements designed to define, deter, and discourage the persistent use of unfair trade practices; and

(B) enforcing and strengthening rules of the World Trade Organization regarding—

(i) trade-distorting practices of state trading enterprises and similar public and private trading enterprises; and

(ii) the acts, practices, or policies of a foreign government that unreasonably—

(I) require that substantial direct investment in the foreign country be made as a condition for carrying on business in the foreign country;

(II) require that intellectual property be licensed to the foreign

1 country or to any firm of the foreign
 2 country; or

3 (III) delay or preclude implemen-
 4 tation of a report of a dispute panel
 5 of the World Trade Organization;

6 (2) increasing the export of United States agri-
 7 cultural commodities by eliminating barriers to trade
 8 (including transparent and nontransparent barriers);

9 (3) eliminating other specific constraints to fair
 10 trade (such as export subsidies, quotas, and other
 11 nontariff import barriers and more open market ac-
 12 cess) in foreign markets for United States agricul-
 13 tural commodities;

14 (4) developing, strengthening, and clarifying
 15 rules that address practices that unfairly limit
 16 United States market access opportunities or distort
 17 markets for United States agricultural commodities
 18 to the detriment of the United States, including—

19 (A) unfair or trade-distorting activities of
 20 state trading enterprises, and similar public and
 21 private trading enterprises, that result in inad-
 22 equate price transparency;

23 (B) unjustified restrictions or commercial
 24 requirements affecting new technologies, includ-
 25 ing biotechnology;

1 (C) unjustified sanitary or phytosanitary
2 restrictions; and

3 (D) restrictive rules in the establishment
4 and administration of tariff-rate quotas;

5 (5) ensuring that there are reliable suppliers of
6 agricultural commodities in international commerce
7 by encouraging countries to treat foreign buyers no
8 less favorably than domestic buyers of the commod-
9 ity or product involved; and

10 (6) eliminating nontariff trade barriers for
11 meeting the food needs of an increasing world popu-
12 lation through the use of biotechnology by—

13 (A) ensuring market access to United
14 States agricultural commodities derived from
15 biotechnology that is scientifically defensible;

16 (B) opposing the establishment of protec-
17 tionist trade measures disguised as health
18 standards; and

19 (C) protesting continual delays by other
20 countries in their approval processes.

21 **SEC. 5. SALE OR BARTER OF FOOD ASSISTANCE.**

22 It is the sense of Congress that the amendments to
23 section 203 of the Agricultural Trade Development and
24 Assistance Act of 1954 (7 U.S.C. 1723) made by section
25 208 of the Federal Agriculture Improvement and Reform

1 Act of 1996 (Public Law 104–127; 110 Stat. 954) were
 2 intended to allow the sale or barter of United States agri-
 3 cultural commodities in connection with United States
 4 food assistance only within the recipient country or coun-
 5 tries adjacent to the recipient country, unless—

6 (1) the sale or barter within the recipient coun-
 7 try or adjacent countries is not practicable; and

8 (2) the sale or barter within countries other
 9 than the recipient country or adjacent countries will
 10 not disrupt commercial markets for the agricultural
 11 commodity involved.

12 **SEC. 6. SENSE OF CONGRESS REGARDING RELIEF FROM**
 13 **UNFAIR TRADE PRACTICES AFFECTING**
 14 **UNITED STATES AGRICULTURAL COMMOD-**
 15 **ITIES.**

16 (a) FINDINGS.—Congress finds that—

17 (1) often dispute settlement proceedings to re-
 18 solve unfair trade practices of foreign countries that
 19 restrict market access of United States agricultural
 20 commodities are inadequate, time consuming, and
 21 cumbersome; and

22 (2) practices that unfairly limit market access
 23 opportunities for United States agricultural com-
 24 modities through export subsidies and import bar-
 25 riers include—

1 (A) unfair or trade-distorting activities of
2 state trading enterprises, and similar public and
3 private trading enterprises, that result in inad-
4 equate price transparency;

5 (B) unjustified restrictions or commercial
6 requirements affecting new technologies, includ-
7 ing biotechnology, that are not scientifically de-
8 fensible;

9 (C) unjustified sanitary or phytosanitary
10 restrictions;

11 (D) restrictive rules for the establishment
12 and administration of tariff-rate quotas;

13 (E) requirements that substantial direct
14 investment in the foreign country be made as a
15 condition for carrying on business in the foreign
16 country; and

17 (F) requirements that intellectual property
18 be licensed to the foreign country or to any firm
19 of the foreign country.

20 (b) SENSE OF CONGRESS.—It is the sense of Con-
21 gress that the Secretary of Agriculture should aggressively
22 use the authorities granted to the Secretary under section
23 302 of the Agricultural Trade Act of 1978 (7 U.S.C.
24 5652), which provides the Secretary with the authority to
25 use programs of the Department of Agriculture for the

1 agricultural commodity involved when there is undue delay
 2 in a dispute resolution proceeding of an international
 3 trade agreement (such as an agreement administered by
 4 the World Trade Organization).

5 **SEC. 7. MICRONUTRIENT FORTIFICATION PILOT PROGRAM.**

6 Section 415 of the Agricultural Trade Development
 7 and Assistance Act of 1954 (7 U.S.C. 1736g–2) is re-
 8 pealed.

9 **SEC. 8. TECHNICAL CORRECTIONS.**

10 (a) ADMINISTRATIVE PROVISIONS.—Section 216 of
 11 the Federal Agriculture Improvement and Reform Act of
 12 1996 (Public Law 104–127; 110 Stat. 957) is amended—

13 (1) in paragraph (2), by striking “subsection
 14 (c)” and inserting “subsection (b)”;

15 (2) in paragraph (3), by striking “subsection
 16 (d)” and inserting “subsection (c)”;

17 (3) in paragraph (4), by striking “subsection
 18 (g)(2)” and inserting “subsection (f)(2)”; and

19 (4) in paragraph (5), by striking “subsection
 20 (h)” and inserting “subsection (g)”.

21 (b) EMERGING MARKETS.—Section 1542(d)(1)(A)(i)
 22 of the Food, Agriculture, Conservation, and Trade Act of
 23 1990 (Public Law 101–624; 7 U.S.C. 5622 note) is
 24 amended by striking “such democracies” and inserting
 25 “the markets”.

1 (c) TRADE COMPENSATION AND ASSISTANCE PRO-
2 GRAMS.—Section 417(a) of the Agricultural Trade Act of
3 1978 (7 U.S.C. 5677(a)) is amended by inserting “of an
4 agricultural commodity” after “causes exports”.

5 (d) EFFECTIVE DATE.—The amendments made by
6 this section take effect on April 4, 1996.

○